IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1519 of 2002

Between:

Guguloth Devaiah, S/o.Buchaiah (Late)

Aged about 28 years, Occ: Graduate

R/o.Parnasala Village,Dummagudem Mandal,

Khammam Dist.

..... PETITIONER

AND

1. The District Collector, Khammam.

2 The Mandal Revenue Officer, Dummagudem,

Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent i.e. Mandal revenue Officer, Dummagudem Mandal, Khammam District in canceling the Residential Certificate at the instance of the 1st respondent i.e. District Collector, Khammam District in his proceedings Rc.No.E/91/2002, dated 19.1.2002 as illegal, arbitrary and violation of principles of natural justice.

Counsel for the Petitioner: MR.NAGESH BHEEMAPAKA

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the 2nd respondent in cancelling the residential certificate of the petitioner at the instance of the 1st respondent in Proceedings Rc.No.E/91/2002, dated 19.1.2002 as illegal and arbitrary.

The case of the petitioner is that he applied for residential certificate to the 2nd respondent, who after conducting detailed enquiry and also considering the statements of the authorities concerned, issued residential certificate in his favour on 9.12.2001 as per G.O.Ms.No.3, dated 10.1.2000. While so, he received impugned proceedings, dated 19.1.2002 cancelling his residential certificate without giving any opportunity. In fact, the 1st respondent directed the 2nd

respondent to enquire whether the petitioner's forefathers were residing at Parnasala village of Dummagudem Mandal, Khammam District prior to 1950 or not, but surprisingly, the 2nd respondent, by taking undue advantage of the 1st respondent's directions in a hasty manner, cancelled his residential certificate which was granted in his favour after conducting thorough enquiry. When the residential certificate was granted, the petitioner was appointed in the Forest Department as Forest Beat Officer. On 21.1.2002, the Forest Department officials cancelled his appointment by enclosing the cancellation order passed by the 2nd respondent. The petitioner is challenging the cancellation of the appointment order passed by the Forest Department before A.P.A.T Hyderabad. The petitioner is a scheduled tribe candidate and his forefathers belonged to Sugnanapuram Thanda, H/o.Parnashala and the 2nd respondent neither conducted any enquiry nor found out from any Lambadi Thandas with respect to this fact. Hence, the writ petition.

The learned counsel for the petitioner has contended that the 2nd respondent, without giving any notice or opportunity, cancelled the petitioner's residential certificate, and before issuing the residential certificate, a detailed enquiry was conducted by the Mandal Revenue Officer and therefore, the impugned order suffers from serious infirmities and it is in violation of principles of natural justice.

On the other hand, the learned Government Pleader for Social Welfare has contended that the 2nd respondent conducted oral enquiry in his office and the petitioner did not produce any documents to show his residential address as required under G.O.Ms.No.3, dated 10.1.2000 and therefore, there are no infirmities in the impugned order. Hence, he prays to dismiss the writ petition.

The 2nd respondent-M.R.O. issued residential certificate to the petitioner on 9.12.2001. Thereupon, the Mandal Revenue Officer, based on the proceedings of the 1st respondent, cancelled the certificate of local Schedule Tribe candidate. Challenging the same,

this writ petition has been filed.

The contention of the learned counsel for the petitioner is that the 2nd respondent, after conducting due enquiry, issued the residential certificate to the local Schedule Tribe candidate and thereafter, without giving any notice or opportunity to the petitioner to substantiate his case, he cancelled the certificate. The impugned proceedings clearly shows that the 2nd respondent, on personal enquiry which revealed that the forefathers were not the residents of Parnashala village since 1950, and since there is no evidence that the family members of the petitioner have been residing in the village of tribal area since 1950, cancelled the certificate. Thus, the impugned proceedings do not indicate about the issuance of any notice or calling the petitioner for oral enquiry.

In the counter affidavit, it is stated that the petitioner was called to the office of the 2nd respondent and the petitioner did not produce any documents to substantiate his case, and the same cannot be accepted in view of the fact that the plea taken by the respondents in their counter affidavit does not reflect in the impugned proceedings. Therefore, the impugned proceedings clearly show that the petitioner was not given any notice or any opportunity to produce any material before the 2nd respondent-Mandal Revenue Officer Hence, it is a clear case of violation of principles of natural justice. Therefore, the impugned proceedings are set aside and the matter is remitted back to the 2nd respondent to take appropriate decision after giving a reasonable opportunity to the petitioner.

The writ petition is allowed. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Tuesday the Twenty Eighth June, Two Thousand and Five.

REGISTRAR

28th June, 2005

bcj

To

1. The District Collector, Khammam.

2 The Mandal Revenue Officer, Dummagudem,

Khammam District.

3 Two C.Cs. to the government Pleader for Social Welfare, High Court Buildings, Hyderabad (OUT)

4 Two C.D. copies.